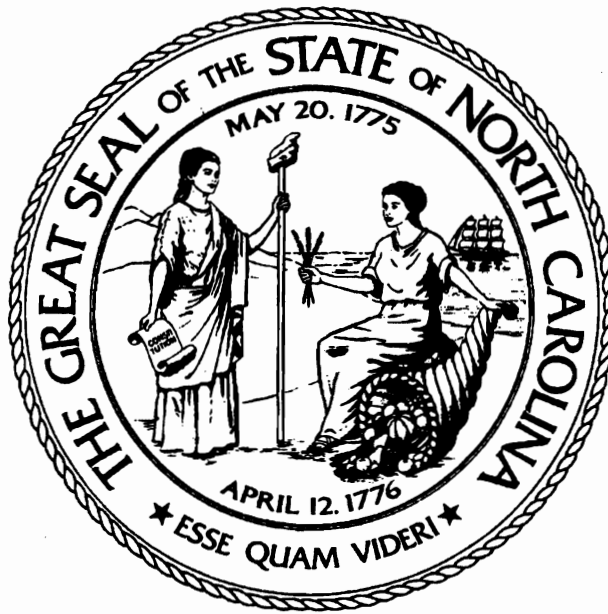


RECEIVED

JOINT LEGISLATIVE COMMISSION

ON MUNICIPAL INCORPORATIONS



**REPORT TO THE
GENERAL ASSEMBLY
OF NORTH CAROLINA
Proposed Town of Midway**

May 15, 2006

REPORT TO THE GENERAL ASSEMBLY

Proposed Incorporation of the Town of Midway May 15, 2006

The Joint Legislative Commission on Municipal Incorporations was created in 1986 by the General Assembly to conduct an independent review and evaluation of proposed municipal incorporations. This evaluation, to be conducted in accordance with a statutory set of objective criteria, is designed to allow the General Assembly to see the feasibility of the proposed new municipality. The Commission consists of four members of the General Assembly, one city official, and one county official. A list of members appears as Appendix A.

The statutory criteria require a review of community support, (a petition is required) population, land development, nearness to other urban areas, and ability to provide municipal services at a reasonable tax rate. A copy of the statutes authorizing the Commission and setting up the review standards is attached as Appendix B.

The Commission received a petition proposing the incorporation of the Town of Midway in Davidson County on March 15, 2005. A copy of the petition is attached as Appendix C.

The Commission, pursuant to G.S. 120-161, asked the Division of Community Assistance of the Department of Commerce to evaluate the petition. The Division conducted the evaluation and, based upon its report, the Commission found that the requirements of G.S. 120-163 and G.S. 120-164 had been met (a copy of the report is attached as Appendix D).

The Commission also requested that the Division of Community Assistance evaluate the proposed Town's petition for incorporation under G.S. 120-166 (a copy of the report is attached as Appendix E). The Division conducted the evaluation and determined that because of its population and proximity to the proposed Town, the City of Winston-Salem must expressly approve the incorporation of Midway. The City of Winston-Salem adopted the required resolution on April 18, 2005, but conditioned its approval upon the proposed Town including certain limitations on annexations in its charter (a copy of the resolution is attached as Appendix F).

The Commission further requested that the Division of Community Assistance evaluate the proposed Town's petition under G.S. 120-167 through G.S. 120-170 (a copy of the report is attached as Appendix G). The Division conducted the evaluation and determined that all statutory requirements had been met.

APPENDIX A

JOINT LEGISLATIVE COMMISSION ON
MUNICIPAL INCORPORATIONS
2004-2006
Membership

President Pro Tem's Appointments

Senator Fletcher Hartsell
P. O. Box 368
Concord, NC 28026-0368

Senator Vernon Malone
2124 Lyndhurst Dr.
Raleigh, NC 27610

Mr. Steven Raper
P. O. Box 1180
Rocky Mount, NC 27802-1180
raper@ci.rocky-mount.nc.us
(252) 972-1325

Staff

Gerry Cohen, Director
Bill Drafting Division

Gayle L. Moses, Staff Attorney
Bill Drafting Division

Speaker's Appointments

Representative Becky Carney
P. O. Box 32873
Charlotte, NC 28232

Representative William Wainwright
P. O. Box 941
Havelock, NC 28532

Mr. Colin McKenzie
Moore County Commissioner
P. O. Box 774
Pinehurst, NC 28370

Legislative Assistant

Jayne Nelson
531 Legislative Office Building

voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include: a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 1; 2001-353, s. 6.)

§ 120-164. Notification.

(a) Not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) All cities within that county or counties; and

§ 120-167. Additional criteria; population.

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 2.)

§ 120-168. Additional criteria; development.

The Commission may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 3.)

§ 120-169. Additional criteria; area unincorporated.

The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1), or if any of the proposed municipality is included within the boundary of a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2005-35, s. 3.)

§ 120-169.1. Additional criteria; level of development, services; financial impact on other local governments.

(a) Repealed by Session Laws 1999-458, s. 4.

(b) Services. – The Commission may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. This plan shall be based on the proposed services stated in the petition under G.S. 120-163(c).

(c) The Commission in its report shall indicate the impact on other municipalities and counties of diversion of already levied local taxes or State-shared revenues from existing local governments to support services in the proposed municipality. (1998-150, s. 3; 1999-458, s. 4.)

§ 120-170. Findings as to services.

The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-171. Procedures if findings made.

(a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along with specific findings. If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request of a majority of the members of

PETITION FOR PROPOSED TOWN OF MIDWAY

A P P E N D I X C

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MIDWAY.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Midway is enacted to read:

"CHARTER OF THE TOWN OF MIDWAY.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and Corporate Powers. The inhabitants of the Town of Midway are a body corporate and politic under the name 'Town of Midway'. The Town of Midway has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. Town Boundaries. Until modified in accordance with law, the boundaries of the Town of Midway are as follows:

Beginning at a point in the centerline intersection of Secondary Road # 1509 (Follansbee Road) and running thence in an easterly direction following the Forsyth County/Davidson County line to the southwest corner of PIN#6842-03-10-0045; thence in an easterly and northerly direction along the western boundary and in an easterly direction along the northern boundary of PIN#6842-03-10-0045; thence in an easterly direction along the northern boundary of PIN#6842-03-10-2004; thence in an easterly direction along the northern boundary of PIN#6842-03-10-4023; thence in an easterly direction across Secondary Road #3022 (Briarcreek Drive); thence in an easterly direction along the northern boundary of the following 3 parcels, (1) PIN#6841-01-19-7907, (2) PIN#6841-01-19-8699, (3) PIN#6841-01-29-1926; thence in an easterly direction across Secondary Road # 1975 (Hayes Road); thence in an easterly direction along the northern boundary of the following 3 parcels, (1) PIN#6841-01-29-681 1, (2) PIN#6841-01-29-8897, (3) PIN#6841-01-29-9888; thence in a northerly direction along the western boundary and in an easterly direction along

1 intersection of Secondary Road # 1719 (Tom Livengood Road); thence continuing on
2 from the centerline intersection of Tom Livengood Road in a southwesterly direction
3 along the eastern boundary of the following 10 parcels, (1) PIN#6841-04-74-2355, (2)
4 PIN#6841-04-74-2117, (3) PIN#6841-04-74-1049, (4) PIN#6841-04-74-1025, (5)
5 PIN#6841-04-73-0979, (6) PIN#6841-04-73-0912, (7) PIN#6841-04-63-9739, (8)
6 PIN#6841-04-63-8656, (9) PIN#6841-04-63-7561, (10) PIN#6841-04-63-5289; thence
7 across Secondary Road (Brookdale Drive) and continuing on from the centerline
8 intersection of Tom Livengood Road in a southwesterly direction along the eastern
9 boundary of the following 18 parcels, (1) PIN#6841-04-63-503 7, (2)
10 PIN#6841-04-62-5 83 7, (3) PIN#6841-04-62-5735, (4) PIN#6841-04-62-5 623, (5)
11 PIN#6841-04-162-5501, (6) PIN#6841-04-62-4400, (7) PIN#6841-04-52-823 0, (8)
12 PIN#6841-04-61-3 700, (9) PIN#6841-04-61-25 89, (10) PIN#6841-04-61-2456, (11)
13 PIN#6841-04-61-2324, (12) PIN#6841-04-61-220 1, (13) PIN#6841-04-52-8230, (14)
14 PIN#6841-04-50-7908, (15) PIN#6841-04-50-5992, (16) PIN#6841-04-50-4876, (17)
15 PIN#6841-04-50-3 862, (18) PIN#6841-04-50-1777 to the centerline intersection of
16 Secondary Road # 1715 (Norman Shoaf Road); thence continuing on from the
17 centerline intersection of Norman Shoaf Road in a southeasterly direction along the
18 western boundary of PIN#6841-04-50-63 83; thence continuing on from the center line
19 intersection of Norman Shoaf Road in a southeasterly direction intersecting
20 PIN#6840-02-790248 and continuing in an easterly direction along the southern
21 boundary of PIN#6840-02-790248 to the northwest corner of PIN#6840-02-77-5742;
22 thence in a southerly, westerly, and easterly direction along the western and southern
23 boundary of PIN#6840-02-77-5742 to the western corner of PIN#6840-02-77-5455;
24 thence in a easterly direction along the northern boundary of PIN#6840-02-77-5455;
25 thence in a southerly direction along the eastern boundary of PIN#6840-02-77-731 1;
26 thence in a southerly direction along the eastern boundary of PIN#6840-02-76-7881 to
27 the centerline intersection of Secondary Road #1720 (Spry Road); thence continuing on
28 from the centerline intersection of Spry Road in a westerly direction along the northern
29 boundary of PIN#6840-02-76-9255; thence in a southerly direction along the western
30 boundary of PIN#6840-02-76-9255; thence in a southerly direction along the western
31 boundary of PIN#6840-02-75-9770; thence in a southerly direction along the western
32 boundary of PIN#6840-02-85-8453 to the northeast corner of PIN#6840-04-64-8862;
33 thence in a westerly direction along the northern boundary of PIN#6840-04-64-8862 to
34 the centerline intersection of Secondary Road # 1715 (Norman Shoaf Road); thence
35 continuing on from the centerline intersection of Norman Shoaf Road in a southerly
36 direction along the western boundary of PIN#6840-04-64-8862 and
37 PIN#6840-04-64-6336 to the centerline intersection of Secondary Road # 1802
38 (Midway School Road); thence continuing on from the centerline intersection of
39 Midway School Road in a westerly direction along the southern boundary of the
40 following 16 parcels, (1) PIN#6840-04-64-2222, (2) PIN#6840-04-64-0223, (3)
41 PIN#6840-04-54-8188, (4) PIN#6840-04-54-7111, (5) PIN#6840-04-54-503 8, (6)
42 PIN#6840-04-54-2564, (7) PIN#6840-04-54-1150, (8) PIN#6840-03-44-8062, (9)
43 PIN#6840-03-43-5929, (10) PIN#6840-03-43-4765, (11) PIN#6840-03-43-2782, (12)
44 PIN#6840-03-43-1648, (13) PIN#6840-03-43-0622, (14) PIN#6840-03-33-9549, (15)

1 direction along the northern and western boundary of PIN#6830-04-73-4213; thence in
2 an easterly direction along the northern boundary of PIN#6830-04-73-4213 and
3 PIN#6830-04-74-6129 to the southeast corner of PIN#6830-04-742712; thence in a
4 northerly, easterly, and westerly direction along the eastern and northern boundary of
5 PIN#6830-04-74-2712 to the northeast corner of PIN#6830-02-65-9329; thence to the
6 centerline intersection of Secondary Road # 15 06 (Eller Road); thence continuing on
7 from the centerline intersection of Eller Road in a westerly direction along the southern
8 boundary of PIN#6830-02-66-7211 and PIN#6830-02-66-1859; thence in a westerly
9 direction across US Hwy 52; thence continuing on from the centerline intersection of
10 Eller Road in a westerly direction along the southern boundary of
11 PIN#6830-01-46-8112; thence in a westerly direction across Secondary Road #1507
12 (David Smith Road); thence continuing on from the centerline intersection of Eller Road
13 in a westerly direction along the southern boundary of the following 6 parcels, (1)
14 PIN#6830-01-45-3888, (2) PIN#6830-01-45-2913, (3) PIN#6830-01-45-1903, (4)
15 PIN#6830-01-45-0914, (5) PIN#6830-01-35-9914, (6) PIN#6830-01-35-8916; thence
16 continuing on from the centerline intersection of Eller Road in a westerly direction
17 across PIN#6830-03-34-1105; thence continuing on from the centerline intersection of
18 Eller Road in a westerly direction along the southern boundary of the following 5
19 parcels, (1) PIN#6830-01-352729, (2) PIN#6830-01-3 5-0880, (3)
20 PIN#6830-01-25-8894, (4) PIN#6830-01-26-6274, (5) PIN#683 0-01-26-032 1; thence
21 continuing on from the centerline intersection of Eller Road in a westerly direction.
22 across PIN#6830-01-16-7699; thence continuing on from the centerline intersection of
23 Eller Road in a westerly direction along the southern boundary of PIN#6830-0116-3314
24 and PIN#6830-01-16-2324; thence continuing on from the centerline intersection of
25 Eller Road in a westerly direction across Secondary Road #3229 (Woodfield Drive);
26 thence continuing on from the centerline intersection of Eller Road in a westerly
27 direction along the southern boundary and in a northerly direction along the western
28 boundary of PIN#6830-01-160327; thence in a northerly direction along the western
29 boundary of the following 4 parcels, (1) PIN#6830-01-16-0524, (2) PIN#683
30 0-01-16-0634, (3) PIN#6830-01-16-0735, (4) PIN#68300 1 - 16-083 5; thence in a
31 northerly direction across Secondary Road #323 0 (Woodwind Drive); thence in a
32 northerly direction along the western boundary of the following 2 parcels, (1) PIN#683
33 0-01-07-9199, (2). PIN#683 0-01-17-0404; thence in a northerly direction across
34 Secondary Road #3225 (Meadolee Lane); thence in a northerly direction along the
35 western boundary of PIN#6830-01-17-0708; thence in a northerly and easterly direction
36 along the western and northern boundary of PIN#6830-01-18-2180 to the southwest
37 corner of PIN#683001-18-6453; thence in a northerly and easterly direction along the
38 western and northern boundary of PIN#6830-01-18-6453 to the northwest corner of
39 PIN#6830-01-18-8356; thence in an easterly direction along the northern boundary of
40 the following 2 parcels, (1) PIN#6830-01-18-8356, (2) PIN#6830-01-18-9356; thence in
41 an easterly direction across Secondary Road #3202 (Laurel Court); thence in an easterly
42 direction along the northern boundary of the following 24 parcels, (1)
43 PIN:96830-01-28-1306, (2) PIN#6830-01-28-2306, (3) PIN#6830-01-28-3314, (4)
44 PIN#683001-28-4313, (5) PIN#6830-01-28-5313, (6) PIN#6830-01-28-6312, (7)

1 parcels, (1) PIN#6831-03-01-6275, (2) PIN#6831-03-017418, (3)
2 PIN#6831-03-01-7614, (4) PIN#6831-03-01-7726, (5) PIN#6831-03-02-7030 to the
3 centerline intersection of Secondary Road # 1511 (Hartman Road); thence continuing
4 on from the centerline intersection of Hartman Road in a westerly direction along the
5 southern boundary of PIN#6831-03-02-641 I to the centerline intersection of Secondary
6 Road #15 10 (North Payne Road); thence continuing on from the centerline intersection
7 of North Payne Road in a northerly direction along the western boundary of the
8 following 6 parcels, (1) PIN#6831-03-02-641 1, (2) PIN#6831-03-13-1651, (3)
9 PIN#6831-03-03-6348, (4) PIN#6831-03-13-1651, (5) PIN#683 I 03-04-8802, (6)
10 PIN#6831-03-04-8901; thence across Secondary Road (Havenwood Drive); thence
11 continuing on from the centerline intersection of North Payne Road in a northerly
12 direction along the western boundary of the following 4 parcels, (1)
13 PIN#6831-01-05-8017, (2) PIN#6831-01-05-8117, (3) PIN#6831-01-05-8227, (4)
14 PIN#6831-01-05-8336; thence across Secondary Road (Cale Bradley Court); thence
15 continuing on from the centerline intersection of North Payne Road in a northerly
16 direction along the western boundary of the following 6 parcels, (1)
17 PIN#6831-01-05-8541, (2) PIN#6831-01-05-8641, (3) PIN#6831-01-05-8741, (4)
18 PIN#683 I 01-05-8851, (5) PIN#6831-01-05-8951, (6) PIN#683 1-01-06-8073; thence
19 in an easterly direction along the northern boundary of PIN#6831-01-06-8073; thence
20 across Secondary Road #1508 (Hickory Tree Road) to the southern corner of
21 PIN#6831-01-06-9382; thence in a northerly direction along the eastern boundary
22 of PIN#6831-01-06-9382; thence in a northerly and easterly direction along the southern
23 and eastern boundary of PIN#6831-01-17-4633 to the southwest corner of
24 PIN#6831-01-48-3804; thence in an easterly direction along the southern boundary of
25 PIN#6831-01-48-3804 to the centerline intersection of US Hwy 52; thence continuing
26 on from the centerline intersection of US Hwy 52 in a northerly direction along the
27 western boundary of the following 7 parcels, (1) PIN#6831-01-48-3804, (2)
28 PIN#6831-01-49-3076, (3) PIN#6831-01-3 8-1662, (4) PIN#6831-01-49-2319, (5)
29 PIN#6831-01-49-1574, (6) PIN#6831-01-49-1626, (7) PIN#6831-01-49-0891 to the
30 centerline intersection of Secondary Road #1509 (Follansbee Road), which is the
31 beginning.

32 All references to the PIN # herein are references to Davidson county tax map system as
33 of April 11, 2005. A copy shall be maintained in the records of the Town of Midway.

34 "Section 2.2. **Annexation.** (a) The Town of Midway shall not extend its boundaries
35 into Forsyth County by annexation pursuant to Article 4A of Chapter 160A of the
36 General Statutes.

37 (b) The Town of Midway shall not extend its boundaries into Davidson County
38 by annexation to the west of Line B or to the north of Line C as shown on the map dated
39 March 24, 2005, entitled "Proposed Midway Incorporation," as prepared by the City of
40 Winston-Salem, unless the annexation is undertaken pursuant to an annexation
41 agreement between the Town of Midway and the City of Winston-Salem.

42 "ARTICLE III. GOVERNING BODY.

1 municipal taxes levied for the year beginning July 1, 2006, and for that purpose the
2 Town shall obtain from Davidson County a record of property in the area herein
3 incorporated which was listed for property taxes as of January 1, 2006.

4 "Section 6.2. **Budget.** The Town may adopt a budget ordinance for fiscal year 2006-
5 2007 without following the timetable in the Local Government Budget and Fiscal
6 Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is
7 practical. For fiscal year 2006-2007, ad valorem taxes may be paid at par or face
8 amount within 90 days of adoption of the budget ordinance and thereafter in accordance
9 with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to
10 July 1, 2006, the Town may adopt a budget ordinance for fiscal year 2005-2006 without
11 following the timetable in the Local Government Budget and Fiscal Control Act, but
12 shall follow the sequence of actions in the spirit of the act insofar as practical. No ad
13 valorem taxes may be levied for the 2005-2006 fiscal year.

14 "Section 6.3. **Ad Valorem Taxes.** The Town Council shall not increase the ad
15 valorem tax rate more than \$0.10/\$100.00 valuation in each fiscal year without the vote
16 or consent of a majority of the qualified voters of the Town of Midway. The election on
17 the question of increasing the ad valorem tax rate shall be conducted in accordance with
18 G.S. 160A-209."

19 **SECTION 2.** This act is effective when it becomes law.
20

DAVIDSON COUNTY BOARD OF ELECTIONS
912 GREENSBORO STREET
P O BOX 1084
LEXINGTON, NC 27293-1084

H. L. (DOC) HILL, CHAIRMAN
ROSA R. TERRY
RANDY L. CRANFORD

MS. RUTH HUNEYCUTT
rhuneycu@co.davidson.nc.us
Director (336) 242-2922
Office (336) 242-2190
Fax (336) 242-2199

Betty Nifong
183 Dublin Drive
Winston-Salem, North Carolina 27107

July 7, 2005


Dear Ms. Nifong:

On May 3, 2005 the Davidson County Board of Elections completed the identification of the streets and roads located inside the proposed boundaries of the incorporation of Midway.

As of May 3, 2005 the Davidson County Board of Elections identified 3,135 registered voters eligible to sign the petition for incorporation.

As per the attached page of Petition Summary Report the total pages checked were 194 with a requirement of 1,598 and total signatures checked were 2,199 and 1,632 being valid signatures according to the active voter registration records of the Davidson County Board of Elections.

This the 7th day of July, 2005.


Rosa R. Terry, Secretary
Davidson County Board of Elections

3135 eligible
1632 signed

52%

Petition Details Report

DAVIDSON COUNTY BOARD OF ELECTIONS

Petition Name	Filing Date	Total Pages	Required	Signatures	Valid	Contact Name
				Checked		
MIDWAY CORP	4/15/2005 12:00:00AM	194	1,598	2,199	1,632	NIFONG, BETTY



DAVIDSON COUNTY PLANNING DEPARTMENT

GOVERNMENTAL CENTER
913 GREENSBORO STREET
POST OFFICE BOX 1067
LEXINGTON, NORTH CAROLINA 27293-1067

GUY L. CORNMAN, III
PLANNING DIRECTOR

TOLL FREE NUMBERS:
LEXINGTON 336-242-2220
THOMASVILLE 336-472-8016
WINSTON SALEM 336-723-7890 EXT. 2220
DENTON 336-859-2194 EXT. 2220

April 29, 2005

Sen. Stan Bingham (33 District)
2117 Legislative Building
Raleigh, NC 27601-2808

Dear Senator Bingham,

This letter is in regards to the proposed Town of Midway and its estimated population. According to the latest official census data taken from the year 2000, the estimated population of the Town of Midway is 4,198. Using the County GIS data base, we have calculated the square mileage of the proposed Town of Midway to be eight (8) square miles. Therefore, we can determine that there is approximately 525 persons per square mile within the proposed boundaries of the Town of Midway.

The North Carolina General Statute 120-167 requires proposed municipalities to have a population density of at least 250 persons per square mile. If you have any further questions regarding the demographics of the Town of Midway, or the figures that have been provided, please contact me through this office by calling 336-242-2220.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Leonard".

Scott Leonard
Planner

July 1, 2005

Oliver J. Bass, Jr.
NC Dep't. of Commerce
Division of Community Assistance
4313 Mail Service Center
Raleigh, NC 27699-4313

Mr. Bass,
Thank you for speaking with me today about the needed information for the incorporation of Midway in Davidson County.

1. Attached is a letter from the Davidson County Board of Elections stating the number of registered voters in the proposed area. (You already have a letter dated 5/31/05 from Chairman H. L. Hill)
2. Attached is a letter from Scott Leonard of the Davidson County Planning Department as to the land development in the proposed area.
3. **Statement:** "The proposed Town of Midway will have a budget ordinance with an ad valorem tax levy of at least 5 cents on the \$100.00 valuation upon all taxable property within its corporate limits."
4. **Statement:** "All of the proposed services will be offered no later than the first day of the third fiscal year following the effective date of the incorporation of the Town of Midway."
5. **Statement:** "The proposed Town of Midway will have a signed contract with the Davidson County Sheriffs' Department for police (law) protection."
6. Attached are copies of letters to the mayors of Winston-Salem, High Point, Denton, Wallburg, Lexington, Thomasville and to the Davidson County Board of Commissioners regarding the filing of the petition.

If there are other questions, please call me at 336/784-0339.

Betty L. Nifong, Midway Interim Council



Mailing Address
Davidson Water Inc.
P.O. Box 969
Welcome, NC 27374
Lexington (336) 731-2341
Winston-Salem (336) 764-2534
Thomasville (336) 475-8229



Shipping Address
Davidson Water Inc.
7040 Old Highway 52
Lexington, NC 27295
Water Plant (336) 787-5800
Office Fax (336) 731-3195
www.davidsonwater.com
email info@davidsonwater.com

August 15, 2005

City of Midway

To Whom It May Concern:

Davidson Water, Inc. is an approved water utility under the NC Department of Environmental Health. We have a certified water plant and lab. We will continue to provide water service in the proposed City of Midway.

The following are the current rates for Davidson Water, Inc.

Rate Schedule as of January 2004

0 - 2,000	Minimum	\$8.75
2,001 - 10,000	Per Thousand	\$3.20
10,001 - 50,000	Per Thousand	\$2.90
Over 50,000	Per Thousand	\$2.35

Minimum Bill Based on Size Meter

3/4"	0 - 2,000 Gals	\$8.75
1"	0 - 5,000 Gals	\$18.35
1 1/2"	0 - 10,000 Gals	\$34.35
2"	0 - 20,000 Gals	\$63.35
3"	0 - 50,000 Gals	\$150.35
4"	0 - 75,000 Gals	\$209.10
6"	0 - 150,000 Gals	\$385.35
8"	0 - 250,000 Gals	\$620.35

Tap Fees

3/4"	\$1,035.00
1"	\$2,035.00
1 1/2"	\$3,035.00
2"	\$4,035.00

For further information on rates and policy visit our website
www.davidsonwater.com

Sincerely,

Robert Walters
Assistant Manager

RW/mp

**MAILED**
8/16/05 DE

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPET
SECRETARY

August 16, 2005

Ms. Betty Nifong
183 Dublin Drive
Winston-Salem, NC 27107

Subject: Street Maintenance in the proposed Town of Midway

Dear Ms. Nifong:

This is to advise you that if the proposed Town of Midway incorporates, The North Carolina Department of Transportation will continue to maintain all existing state roads inside the proposed municipal boundaries.

New roads inside the proposed municipal boundary will also be added to the NCDOT system for maintenance when they meet all NCDOT minimum requirements as specified in the minimum construction standards for subdivision roads manual.

If we can provide additional assistance, please contact us at 336-703-6500.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Patton".

Michael T. Patton
Division Maintenance Engineer

MTP:dmf

✓ cc: Chris Corriher- District I Engineer
Mark Crook- Davidson County Maintenance Engineer



May 15, 2005 Received

DAVIDSON COUNTY TAX OFFICE
JOE SILVER, TAX ADMINISTRATOR
913 GREENSBORO STREET
P.O. BOX 1617
LEXINGTON, N.C. 27293-1617

June 1, 2005

Ms. Betty Nifong
183 Dublin Dr.
Winston Salem, N.C. 27107

Re: Valuation of Proposed Incorporated Town of Midway.

It is difficult to establish the correct number of parcels that the Town of Midway would incorporate and the total valuation of the property. However, based on the information that has been supplied to me, the following would be fair estimates.

Number of parcels of property - 2,373

Valuation of property - \$259,478,000. (This figure however does not reflect exempt properties or properties with elderly exemptions.)

Revenue generated per year at a tax rate of .05 - \$129,739.00

I wish I could be more precise, but this is an estimate based on the information supplied. In any case, if this number of parcels, valuation, or revenue should change, I would notify you as soon as possible.

If you should have any questions of me, please don't hesitate to contact me.

With Regards,

A handwritten signature in cursive script that reads "Joe Silver".

Joe Silver
Tax Administrator
Davidson County

PHONE: (336) 242-2165

FAX: (336) 243-2894

JSILVER@CO.DAVIDSON.NC.US

PROPOSED MIDWAY, DAVIDSON COUNTY, NC---INTERIM COUNCIL

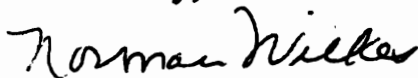
July 1, 2005

Mayor Jack L. Craven
Town of Wallburg
9463 N. C. Hwy. 109
Winston-Salem, NC 27107

Dear Mayor Craven,

This letter serves as notice of the intent of Midway in northern Davidson County to incorporate as the Town of Midway. North Carolina General Statute 120-164 (a) requires that all cities within the county and within 5 miles of the proposed boundaries be notified of the filing of the petition.

Sincerely,

A handwritten signature in cursive script that reads "Norman Wilkes".

Norman Wilkes

PROPOSED MIDWAY, DAVIDSON COUNTY, NC---INTERIM COUNCIL

July 1, 2005

Mayor Joe G. Bennett
City of Thomasville
P. O. Box 368
Thomasville, NC 27361

Dear Mayor Bennett,

This letter serves as notice of the intent of Midway in northern Davidson County to incorporate as the Town of Midway. North Carolina General Statute 120-164 (a) requires that all cities within the county and within 5 miles of the proposed boundaries be notified of the filing of the petition.

Sincerely,


Norman Wilkes

PROPOSED MIDWAY, DAVIDSON COUNTY, NC---INTERIM COUNCIL

July 1, 2005

Mayor Becky Smothers
City of High Point
P. O. Box 230
High Point, NC 27261

Dear Mayor Smothers,

This letter serves as notice of the intent of Midway in northern Davidson County to incorporate as the Town of Midway. North Carolina General Statute 120-164 (a) requires that all cities within the county and within 5 miles of the proposed boundaries be notified of the filing of the petition.

Sincerely,

Norman Wilkes

Norman Wilkes

Advertising Receipt

The Dispatch

30 East 1st Avenue
PO Box 908 (27293-0908)
Lexington, NC 27293
Phone: (336) 249-3981
Fax: (336) 249-2944

NIFONG BETTY
MIDWAY INCORPORATION
183 DUBLIN DRIVE
WINSTON SALEM, NC 27107

Cust#: 04101800-000
Ad#: 04504985
Phone: (336)784-0339
Date: 06/03/05

Ad taker: 015

Salesperson:

Classification: 0001

Description	Start	Stop	Ins.	Cost/Day	Surcharges	Total
01 The Dispatch	06/04/05	06/11/05	2	22.42	0.00	44.85
9-10 Point Words						0.00

Payment Reference:

PUBLIC
NOTICE

Midway, an area of an estimated 8 square miles with approximately 4,000+ residents in Northern Davidson County has met all of the requirements of the State of North Carolina to file a petition for Incorporation. The petition is being filed with the Commission in Raleigh for Midway to become the "Town of Midway."

June 4 & 11, 2005

Total: 44.85

Tax: 0.00

Net: 44.85

Prepaid: 44.85

Total Due 0.00

**RESOLUTION EXPRESSING APPROVAL
FOR THE PROPOSED INCORPORATION OF
MIDWAY IN DAVIDSON COUNTY, NORTH CAROLINA**

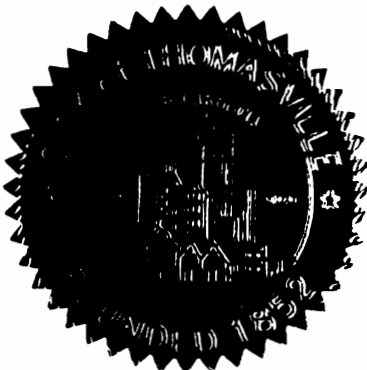
WHEREAS, Midway, an area in Northern Davidson County, proposes to become an incorporated municipality under the laws of the State of North Carolina; and

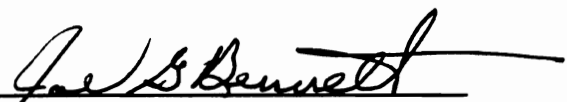
WHEREAS, Section 120-166(b)(3) of the North Carolina General Statutes states that a city may indicate its approval of the incorporation by a Resolution of Support.

NOW, THEREFORE, BE IT RESOLVED, that the Thomasville City Council hereby expresses its approval of the incorporation of the Town of Midway.

BE IT FURTHER RESOLVED that the Mayor of the City of Thomasville is authorized to transmit the Resolution to the Joint Legislative Commission on Municipal Incorporations and the representatives of the Midway Community.

This the 18th day of January, 2005.





Joe G. Bennett, Mayor

EXHIBIT A

Boundary Description

The present 2005 year Wallburg Fire District line will be the Western boundary for the Town of Wallburg's future expansion planning and the Eastern Boundary for the proposed Town of Midway's future expansion planning.

Midway	8 – 9 Square Miles	4,000 citizens
--------	--------------------	----------------

The Division of Community Assistance (DCA) staff has reviewed the petition for the incorporation of Midway to determine if the requirements of NC G.S. 120-163 and 120-164 have been satisfied. These sections of the General Statutes refer to the petition and notification requirements. The requirements of these sections have been satisfied as described below.

G.S. 120-163(a) requires that the petition be signed by at least 15 percent (but not less than 25 voters) of the registered voters in the area proposed for incorporation. The proposed Town of Midway has submitted a petition with the required signatures.

G.S. 120-163(b) requires that "the petition be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt." G.S. 120-163(d) requires that the petitioners present to the Commission the verified petition from the county board of elections. The Davidson County Board of Elections has verified the Town of Midway's petition.

G.S. 120-163(c) requires that the petition include a number of items. These items are:

- A proposed name of the city. The proposed name is the "Town of Midway".
- A map of the city. The petition of the Town of Midway does include a map.
- A list of proposed services to be provided by the proposed municipality. The petition of the Town of Midway does include a list of proposed services.
- The name of three persons to serve as the interim governing board. The petition does include the name of three persons to serve as the interim board.
- A proposed charter. The petition does include a proposed charter.
- A statement of the estimated population and density. The petition does include a statement on the estimated population and density.
- A statement on assessed valuation. The petition does include a statement on the assessed value of property in the proposed area to be incorporated.
- A statement on the degree of development. The petition does include a statement on the degree of development.

**Assessment of Petition
by
Town of Midway
for
Incorporation
Relative to NC G.S. 120-166.**

**North Carolina Department of Commerce
Division of Community Assistance**

Information sources: The foregoing assessment was based on information contained in the petition, and GIS data provided by the Davidson County GIS Department and the Forsyth County GIS website. A buffer analysis (an ArcGIS utility) was performed on the proposed boundary that was presented on the map attached to the petition. The most recent municipal population estimates were retrieved from the NC Office of State Budget and Management, State Demographics web site (<http://demog.state.nc.us/>) on June 29,2005.

Note: 1

§ 120-166. Additional criteria; nearness to another municipality.

(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
- (3) The nearby municipality by resolution expresses its approval of the incorporation; or
- (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved.(1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 25.)

north of Line C on the attached map, unless such annexation is undertaken pursuant to an annexation agreement between Midway and the City of Winston-Salem; and 3) that the Midway incorporation comply with the provisions of Chapter 120, Article 20, Part 2, Procedure for Incorporation Review.

BE IT FURTHER RESOLVED, that the Mayor of the City of Winston-Salem is authorized to transmit this resolution to the Joint Legislative Commission on Municipal Incorporations and to representatives of the Midway community.

**Assessment of Petition
by
Town of Midway
(Davidson County)
for
Incorporation**

**Relative to NC G.S. 120-167
through NC G.S. 120-170**

**North Carolina Department of Commerce
Division of Community Assistance**

Table 1:
Development Relative to NC G.S. 120-168

Land Use	Acres
Commercial	205.810
Industrial	0.889
Institutional/Governmental	76.677
Residential	1581.134
Total developed acreage	1864.510
Undeveloped	2496.274
Total acreage	4360.785
% Developed	42.785%

NC G.S. 120-169 Additional criteria; area unincorporated.

NC G.S. 120-169 requires that none of the area proposed for incorporation may be included within the boundary of another incorporated municipality. DCA compared the proposed boundary for the Town of Midway with the most recently updated Davidson County (GIS) data as well as the North Carolina Department of Transportation (GIS) data and found no evidence that any of the subject area is part of an incorporated municipality. It appears that NC G.S. 120-169 is satisfied.

NC G.S. 120-169.1 Additional criteria; services.

NC G.S. 120-169.1(b) requires that the area to be incorporated submit a plan for providing a reasonable level of municipal services. To meet the requirements of this section, the persons submitting the plan for incorporation must propose to provide at least four of the following services:

- 1) Police protection.
- 2) Fire protection.
- 3) Solid waste collection or disposal.
- 4) Water distribution.
- 5) Street maintenance.
- 6) Street construction or right-of-way acquisition.
- 7) Street lighting.
- 8) Zoning.








The proposed Town of Midway has submitted a sufficient plan for providing four out of eight of the above services. Midway will provide police protection, water distribution, street maintenance, and zoning services. Police protection will be provided through a contract with the Davidson County Sheriff's Department. Water distribution will be provided through a contract with Davidson Water, Inc. Street maintenance will be provided through contract with NC DOT. Zoning will be provided through contract with Davidson County Planning Department. It appears that NC G.S. 120-169.1(b) is satisfied.

FORSYTH

TOWN OF MIDWAY PHASE 2 INCORPORATION STUDY

2

Legend

-  Midway
-  County line
- Development Status**
-  Residential
-  Commercial
-  Industrial
-  Institutional/Public
-  Undeveloped land

Map prepared November 3, 2005

0 1,500 3,000 Feet



The proposed boundary for Midway was drawn based on the map presented by the petitioners dated June 27, 2005. This map should not be considered the official boundary of the proposed town of Midway.

plan to maintain streets locally; therefore, there would be no additional allocation based on street miles.

3. Other Revenues

Municipalities receive an amount equal to approximately 3.09% of the gross receipts resulting from the sale of power and light within the respective municipality. In addition, municipalities receive a portion of the telecommunications sales tax and the piped natural gas tax. Municipalities receive a share of the excise tax on beer and wine if they hold a referendum approving the sale of beer and wine within the corporate limits.

The Department of Revenue has estimated the amount of revenue that the town of Midway would have received in FY 2004-05 from each of these taxes. This information is included in the attached report.

Prepared by:
Rodney Bizzell, Fiscal Research Division
Brian Slivka, Fiscal Research Division
May 12, 2006

**PRO FORMA ESTIMATE OF REVENUES FOR THE POSSIBLE INCORPORATION
OF TOWN OF MIDWAY (DAVIDSON COUNTY)
FOR FISCAL YEAR 2004-05**

Total Taxable Property Valuation	259,627,770
Proposed Property Tax Rate per \$100 valuation	0.05
Estimated Property Tax Levy	\$129,800
Estimated Permanent Resident Population	5,536
Roads - Locally Maintained	<u>0</u>

Pro Forma Revenue, Fiscal Year 2004-05

1. Sales & use tax *	\$862,000
2. Electric power franchise tax *,***	\$155,000
3. Beer & wine excise taxes *,**	\$24,500
4. Piped natural gas excise tax***	\$22,000
5. Telecommunications sales tax*,***	\$33,000
6. Powell Bill *	<u>\$128,500</u>
TOTAL	\$1,225,000

*** Items 1, 3, 5, and 6 require a minimum tax rate of \$0.05 per \$100 valuation.**

**** A newly incorporated municipality in Davidson County would share in the beverage tax revenues only after holding a referendum in which the sales of beer and/or wines are approved.**

***** The electric power franchise tax distribution is equal to 3.09% of the gross receipts from the sale, within the corporate limits of the municipality, of electricity. Please note effective July 1, 1999, the utility franchise tax on piped natural gas was repealed and replaced with the piped natural gas excise tax. Effective January 1, 2002, the telephone franchise tax was repealed and replaced with a sales & use tax.**

THIS DOCUMENT REPRESENTS A PUBLIC RECORD WHICH MAY BE DISTRIBUTED TO ANYONE REQUESTING IT.

ELECTRIC POWER COMPANIES FRANCHISE TAX**\$28.00**

	<u>Muni.</u>		<u>Distribution</u>	<u>Population</u>	<u>Per Capita</u>
S	Harrisburg	Cabarrus	190,817	5,250	36.35
A	Walkertown	Forsyth	169,315	4,532	37.36
M	Summerfield	Guilford	182,942	7,227	25.31
P	China Grove	Rowan	112,584	4,216	26.70
L	Spencer	Rowan	66,407	3,384	19.62
E	Trinity	Randolph	165,724	6,830	24.26
Average			147,965	5,240	\$28.24

TELECOMMUNICATIONS SALES TAX (cities incorporated after 1/1/01)**\$6.00**

	<u>Muni.</u>		<u>Distribution</u>	<u>Population</u>	<u>Per Capita</u>
S	Harrisburg	Cabarrus	57,647	5,250	10.98
A	Walkertown	Forsyth	27,104	4,532	5.98
M	Summerfield	Guilford	19,937	7,227	2.76
P	China Grove	Rowan	48,049	4,216	11.40
L	Spencer	Rowan	28,935	3,384	8.55
E	Trinity	Randolph	30,822	6,830	4.51
			35,416	5,240	\$6.76

POWELL BILL**(for FY 2004-05) (Total of pop.+ miles)****\$128,435**

Per Capita Rate	23.20	\$128,435
Per Mile Rate	1,709.23	\$0